

REMARKS

Upon entry of the present amendment, claims 1, 18, 24, 31-35 and 37-38 will have been amended to more clearly recite the claimed subject matter and to enhance the clarity of the claim language. More particularly, claim 1 will have been amended to clarify that facilities, assigned to implement a service order received at a provisioning server, are identified based on the provisioning data of the service order; claim 18 will have been amended to clarify that a provisioning server determines provisioning facilities assigned to implement the service order; and claim 31 will have been amended to clarify that the facility assignment code segment of a provisioning server is for determining a plurality of facilities assigned to implement the service order based on provisioning data indicated by the service order. Also, claims 31-35 and 37-38, which are directed to computer readable media, will have been amended to delete "source" from each of the code segment recitations. Applicants respectfully submit that all pending claims are now in condition for allowance.

In the above-referenced Official Action, the Examiner rejected claims 1-7, 18-19, 22-23 and under 35 U.S.C. § 103(a) as being anticipated by SUNDARESAN et al. (U.S. Patent No. 6,463,079) in view of JOST et al. (U.S. Patent No. 6,778,651). The Examiner rejected claims 8-17, 20-21 and 24-38 under 35 U.S.C. § 103(a) as unpatentable over SUNDARESAN et al. in view of JOST et al. further in view of BYERS (U.S. Patent No. 5,926,472). Applicants respectfully traverse these rejections, at least for the reasons stated below.

The SUNDARESAN et al. patent is directed to pre-qualifying service requests in  
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order to establish services in a network. See, e.g., Abstract ("The OSS pre-qualifies the services based on data identifying a user location and on the availability of any resources which may be needed exclusively for the user location to provide the service.") In other words, SUNDARESAN et al. determine information such as the identity and location of a subscriber, whether a requested service is available at that location, whether the length of the subscriber's local loop exceeds that required for providing the server, and the like. See, e.g., col. 16, lines 50-67. In contrast, the pending claims are directed to actually provisioning services, which have been pre-qualified, by determining assigned facilities, converting service orders into provisionable steps and/or actually configuring the facilities to implement the requested service. The pending claims assume that the service orders for which network facilities are actually being configured have already been pre-qualified, for example, by a system such as that disclosed by SUNDARESAN et al. Therefore, the teachings of SUNDARESAN et al. are not applicable to the actual provisioning.

In this context, it is apparent that the portions of SUNDARESAN et al. on which the Examiner relied for teaching various features of the independent claims are not relevant. For example, with respect to independent claims 1, 18 and 31, a service order, which requests implementation of a DSL service, is received at a provisioning server for actually implementing the service. The facilities assigned to implement the service order are identified based on the service order or based on provisioning data contained in the service order. SUNDARESAN et al. do not include a provisioning server, since they do not teach actual provisioning, but rather teach pre-qualifying service orders that are later provisioned.

With respect to independent claims 8 and 38, the Examiner relied on col. 16, lines 27-67, and col. 18, lines 1-24, of SUNDARESAN et al. to teach converting a service order into provisionable steps. However, these portions of the patent merely describe a subscriber submitting information to an operational support system (OSS) 190 for pre-qualifying a service order, which includes, for example, determining whether the requested service is provided in a geographic area and local loop distances. Col. 16, lines 50-67; col. 18, lines 6-12. There is no teaching or suggestion of going a step further and provisioning the services, and certainly no teaching or suggestion of how to actually provision the services, *i.e.*, by converting the service order into provisionable steps, as recited in claims 8 and 38.

With respect to independent claim 24, the Examiner relied on SUNDARESAN et al. to teach a facility inventory system. In particular, the Examiner asserted that the claimed facility inventory system is taught by the server system 1030 of Fig. 10, which stores facility information including a type, a location and an availability of each of the plurality of network facilities. However, the server system 1030 of SUNDARESAN et al. stores information relating to a DSL subscriber (*e.g.*, the user location, the desired services and the date from which the services are desired – all information related to pre-qualification), not information relating to the facilities needed to actually implement the services. See, *e.g.*, col. 18, lines 1-12. In fact, SUNDARESAN et al. disclose that the server system 1030 may not even be needed to implement order entry under certain circumstances, in which user information is obtained through alternative means. See col. 18, lines 45-53. Therefore, the server system 1030 clearly does not teach the facility

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inventory system with which the server of claim 24 communicates to determine the provisioning facilities from the plurality of network facilities needed to implement the DSL service based on the service order.

With respect to all of the independent claims, the Examiner additionally relied on JOST et al. only to teach determining an interface corresponding to each of the plurality of assigned facilities, each interface converting at least a portion of the provisioning data into a specific protocol corresponding to the assigned facility, and configuring each of the facilities using the corresponding interface. Therefore, JOST et al. do not overcome the deficiencies of the primary reference.

Further, the JOST et al. patent is not a proper reference under 35 U.S.C. § 103(c). In particular, subject matter which qualifies as prior art only under 35 U.S.C. § 102(e), (f) or (g) shall not preclude patentability under section 103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. JOST et al. potentially qualifies as prior art only under 35 U.S.C. § 102(e), since it issued after the present application was filed. However, at all relevant times, the JOST et al. application and subsequent patent was assigned to Southwestern Bell Telephone Co. (SWBT) and the present application was assigned to SBC Services, Inc., both of which were ultimately owned by the same parent corporation, SBC Communications, Inc., and thus commonly owned. Accordingly, the Examiner cannot rely on JOST et al. as prior art.

Regardless, there is no proper motivation for combining the SUNDARESAN et al. and JOST et al. references. As stated above, the SUNDARESAN et al. patent is directed

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to pre-qualifying orders for high bandwidth connections based on DSL technology, while the JOST et al. patent is directed to the functionality of a service management system (SMS) for implementing advanced intelligent network (AIN) services. The Examiner has thus used impermissible hindsight in formulating the posited rejection of the claims, and has not provided any objective evidence of why one of ordinary skill in the art would have been motivated to modify SUNDARESAN et al. with the teachings of JOST et al. Further, Applicants note that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990). SUNDARESAN et al. fail to suggest such a desirability. Accordingly, withdrawal of the rejections based on the combination of these references is respectfully requested.

With respect to independent claims 8, 24 and 38, the Examiner additionally relied on BYERS, in combination with SUNDARESAN et al. and JOST et al., only to teach configuring an optical concentrator device. Therefore, even assuming (without admitting) proper motivation for combining these references, BYERS does not overcome the deficiencies of SUNDARESAN et al. and JOST et al., discussed above. Accordingly, withdrawal of the rejections based on the combination of these references is respectfully requested.

With regard to claims 2-7, 9-17, 19-23, 25-30 and 32-37, Applicants assert that they are allowable at least because they depend from independent claims 1, 8, 18, 24 and 31, respectively, which the Applicants submit have been shown to be allowable.

Applicants further submit that the dependent claims are allowable because they

recite additional features that are not taught or made obvious by the references upon which the Examiner has relied. For example, dependent claims 17, 30 and 36 recite, in part, a profile that corresponds to service parameter(s). The profile is identified for provisioning purposes, and may include information such as discrete multi-tone (DMT) parameters, *e.g.*, data rates, noise levels and power characteristics to streamline provisioning of a service order. See Specification, paras. [0038], [0041]. In comparison, Fig. 9 and col. 15, lines 55-65 of SUNDARESAN et al., relied upon by the Examiner, merely teach entering data specific to a user, such as user location, as opposed to referencing an identifiable profile.

With respect to dependent claims 11, 26 and 37, SUNDARESAN et al. likewise do not teach or suggest displaying errors or erroneous data at a GUI, or correcting errors through input from the GUI. The portions of SUNDARESAN et al. relied upon by the Examiner (*i.e.*, Figs. 15 and 16; col. 23, lines 1-9; col. 23, line 26 – col. 24, line 55) merely disclose identifying an appropriate central office to associate with a particular user location, and the possibility of errors caused by relying on the user's phone number to make such a determination. There is no disclosure or suggestion of displaying an error message on a GUI, or receiving input via the GUI in response to the erroneous data.

Accordingly, withdrawal of the rejections of the various dependent claims, based on these additional reasons, is respectfully requested.

In view of the herein contained amendments and remarks, Applicants respectfully request reconsideration and withdrawal of all previously asserted rejections set forth in the Official Action of July 14, 2006, together with an indication of the allowability of all pending claims, in due course. Such action is respectfully requested and is believed to be

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appropriate and proper.

Any amendments to the claims in this Reply, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions concerning this Reply or the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,  
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